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Montana Department of Environmental Quality
Subdivision Section
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Testimony for SB 89

Mr. Chairman and Members of the Committee my name is Steve Kilbreath and I represent the Montana Department of Environmental Quality. I am the Section Supervisor for the Subdivision Section; we are responsible for review of all subdivisions in the State under the Sanitation in Subdivisions Act. We review the water, wastewater, storm drainage and solid waste facilities in all subdivisions with lot sizes less than 20 acres.

I am here today to provide testimony against SB 89.

Some background information.

- The subdivision program is 100% fee funded.
- As a point of historical reference the Sanitation Act has been in place for 50 years and was enacted by the 1961 Montana Legislature. The 60 day time frame for review was added to the statute in 1975 and the 50 day time frame for contracted county review was added in 2001.
- Subdivision files are divided into 60 day files and 10 day files. The 60 day files are those reviewed solely by DEQ and 10 day files are reviewed by local government under contract to DEQ. The split between DEQ and contracted reviews is about 1/3 are DEQ and 2/3 are contracted reviews.
- Our current review process is that files are dealt with on a first in first out basis and all reviewers place files in date sequence and review based on when they come to the front of the file. A resubmittal is treated the same way as a new submittal unless it is something that is small and does not take a large amount of time then it will be fit in when a reviewer has a few extra minutes. The time it takes to get to a file is a function of how many files that each reviewer has in their stack and the time it takes to review a file is a function of the size and quality of a file. A small file that is poorly done takes almost the same amount of time as a large file that is well done.

Specific information.

- I became the subdivision supervisor in August of 2005. This was the beginning of the time period when Montana had been discovered and subdivision growth was crazy and it only got worse for the next two years. DEQ and the counties were totally swamped with work; there had not been this type of growth in the history of the subdivision program so we hired additional staff to try to keep up with the work. One of the main points I emphasized with staff was to not deny based on the clock but do complete reviews even if we ran over the deadline.
- In an effort to deal with incomplete applications that result in additional denials we developed the Subdivision Web Application Tool, or SWAT. This is an on-line tool that helps the smaller and simpler subdivisions get a complete application. SWAT contains all the forms and links to find the information and forms needed to complete a file and as a result we have seen an increase in the number of complete applications among SWAT users.
- The other thing we have done is to cross train staff in the review of subdivisions and to create and take training sessions on the road for county staff and consultants. At this point our staff are very efficient at their jobs.

Numbers

- If you look at the three attached graphs you will get a good feel for the subdivision program. These graphs are averages for the last 10 years for only files submitted to DEQ as 60 day files. The first graph shows the average amount of time it took to do our reviews and the average time it took for the consultant to respond to a denial letter and resubmit additional information. The second graph shows the total number of reviews done by DEQ and the number of those that exceeded the 60 day deadline. The third graph shows the number of reviewer file versus the percent of reviews that exceed 60 days.
- The important items to note are that DEQ averaged between 30 and 50 days to do our review for the last 10 years and that the consultants averaged between 30 and 70 days to respond to a denial letter.
- I would be lying to you if I said we never missed the 60 day deadline so take a look at the second and third graphs. They show total reviews, versus reviews over 60 days and then show staff in response to the totals. It's important to note that we added staff to help with the work load. The graphs show that it takes time to hire and train so we managed to add staff after the massive peaks, we saw them coming but were unable to respond in time. The lesson learned is that rapid fluctuations can only be handled by a stable staff level.
- A real important point is that all files are not equal, all consultants submitting files are not equal, and all reviewers are not equal. We see files that range from a 1 lot family transfer to a 265 lot major with public water and public sewer. We see files submitted by professional engineers and files from the homeowners. I've had reviewers that range from environmental science specialists to PE's. All of this plus the number of files in the stack contribute to the time.

Unintended consequences of SB 89

- We do not have the resources to deal with lowering of the statutory review time if there is an increase in numbers of submittals. We have cut our staff to a point that is below the minimum functionality that we need as a program. If work increases there will be no way to meet a 60 day deadline let alone a 30 day deadline with present staff so we will have to hire and train staff and we will fall behind on the review time until we catch up again.
- Probably the most important unintended consequence is that the new proposed deadlines will actually increase the time it takes to do reviews because it will increase the number of denials. Presently reviewers spend 1-2 hours a day on the phone or emailing applicants for more information. If we have a time cushion and we can get the needed information we will issue our approval without issuing a denial. Something that could have been solved with a phone call may end up being solved with a denial letter.
- In closing – the unintended consequences of this bill require DEQ to stand in opposition.
- Thank you and I am available to answer any questions.

DEQ Subdivision Review Program 10 year Average - 60 day files only

